

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL).

April 10, 2000

Dear Xxxxx:

This letter is in response to your letter dated March 9, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Today at BUSINESS I purchased 75 feet of ¾ inch replacement hose for the field sprayer we use each spring and summer to apply herbicide to corn and bean fields. It will be cut in various lengths from 20 inches to 10 feet before installing permanently on the equipment. Due to the procedures in place at the store, I paid sales tax in the amount of \$3.14 on the hose cost of \$43.28.

I request a letter ruling from your department about the taxability of this hose under the described circumstance.

Are there questions of fact that I might be able to answer that would be of help to you?

What recourse might I have to recover the tax paid if it is determined that it was charged in error.

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305 which are the Department's regulations for "Farm Machinery and Equipment." Please note that purchasers that claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in subsection (m) of Section 130.305. Please also note that the type of item is not the only consideration in determining whether or not it will qualify for the exemption. Whether a specific item qualifies for the exemption depends also on how the item will be used by the purchaser.

Consumable supplies generally do not qualify for the exemption. See subsection (k) of the enclosed copy of 86 Ill. Adm. Code 130.305. New or used repair or replacement parts, necessary for the operation of the machine used in production agriculture or in State or federal agricultural

April 10, 2000

programs, qualify for the exemption. See Section 130.305(l). Therefore, if the replacement hose is to be incorporated into a qualifying field sprayer, the replacement hose qualifies for the exemption.

If a taxpayer pays an amount of tax under the Retailers' Occupation Tax Act that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. Only the persons remitting tax to the Department are authorized to file such claims. No credit shall be given the taxpayer unless the taxpayer shows that it has borne the burden of the tax or has unconditionally repaid the amount of the tax to the customer from whom it was collected. See the enclosed copy of 86 Ill. Adm. Code 130.1501. The claims for credit must be prepared and filed upon forms provided by the Department containing the information listed in Section 130.1501(b).

Under Illinois sales tax laws, retailers are not required to file claims for credit. Further, the Department has no authority to compel sellers to file a claim for credit. Whether or not sellers refund the taxes paid and file claims for credit with the Department is a private matter between sellers and purchasers.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.